

§§ 12.301–12.302

§12.26(c) may, by written agreement filed at any time prior to the issuance of an initial decision, or of any other order disposing of all issues in the proceeding, elect to have all issues in the proceeding decided pursuant to the voluntary decisional procedure. Upon receiving a timely filed stipulation signed by all parties evidencing such an election, the Administrative Law Judge shall conduct the proceeding and render a decision pursuant to subpart C of these rules.

§§ 12.301–12.302 [Reserved]

§ 12.303 Pre-decision conferences.

During the time period permitted for discovery pursuant to §12.30(d), and thereafter, the Administrative Law Judge may, in his discretion, conduct one or more pre-decision conferences to be held in Washington, DC or by telephone, with all parties for the purposes of:

- (a) Discussing the advisability of electing the voluntary decisional procedure;
- (b) Encouraging a settlement of the entire case, or any part thereof (such discussions may be *ex parte* with the consent of all parties);
- (c) Simplifying or clarifying issues;
- (d) Obtaining stipulations, admissions of fact and of authenticity of documents;
- (e) Discussing amendments or supplements to the pleadings;
- (f) Encouraging an early settlement of disputes relating to discovery; and
- (g) Discussing any matters of relevance in the proceeding.

At or following the conclusion of a pre-decision conference, the Administrative Law Judge may serve a pre-decision memorandum and order setting forth the agreements reached by the parties, any procedural determinations made by him, and the issues for resolution not disposed of by admissions or agreements by the parties. Such an order shall control the subsequent course of the proceeding unless modified to prevent injustice.

[49 FR 6621, Feb. 22, 1984, as amended at 57 FR 20638, May 14, 1992]

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§ 12.304 Functions and responsibilities of the Administrative Law Judge.

Once he has been assigned the case, the Administrative Law Judge shall be responsible for the fair and orderly conduct of a formal decisional proceeding and shall have the authority:

- (a) To issue such orders as are described in §12.34 of these rules;
- (b) To issue subpoenas pursuant to §§12.34, 12.36, and 12.313 of these rules;
- (c) To take such action as is appropriate pursuant to §12.35 if a party fails to comply with a discovery order, or an order issued pursuant to §12.34 of these rules;
- (d) [Reserved]
- (e) In his discretion, to conduct pre-decision conferences, for the purposes prescribed in §12.303, at any time after a proceeding has commenced pursuant to §12.26(c);
- (f) To issue pre-hearing orders as required by §12.312(a);
- (g) To certify interlocutory matters to the Commission for its determination in accordance with §12.309;
- (h) To issue orders of dismissal pursuant to §12.308;
- (i) To issue default orders for good cause against parties who fail to participate in the proceeding, or to comply with these rules;
- (j) If appropriate, to issue orders for summary disposition in the manner prescribed by §12.310;
- (k) If an oral hearing is ordered, to preside at the oral hearing, which shall include the authority to receive relevant evidence, to administer oaths and affirmations, to examine witnesses, and to rule on offers of proof;
- (l) To make the initial decision; and
- (m) To issue such orders, and take any other actions as are required to give effect to these rules.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984; 49 FR 17750, Apr. 25, 1984, as amended at 57 FR 20637, May 14, 1992]

§ 12.305 Disqualification of Administrative Law Judge.

- (a) *At his own request.* An Administrative Law Judge may withdraw from a formal decisional proceeding when he considers himself to be disqualified on the grounds of personal bias, conflict of interest, or similar bases. In such event, he shall immediately notify the